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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/604,070 | 06/25/2003 | Peter J. Kennedy | U02-0126.32 | 1069 |

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MOORE AND VAN ALLEN PLLC FOR SEMC
P.O. BOX 13706
430 DAVIS DRIVE, SUITE 500
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

DEANE JR, WILLIAM J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2642

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/604,070 | KENNEDY, PETER J. | |
| | Examiner | Art Unit | |
| | William J. Deane | 2642 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 14 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,456,234 (Johnson).

With respect to claims 1 and 8, note, the receiving data processing system (RDPS) and the Summary of the Invention, the receiving of a public text message (Amber Alert; Col. 3, lines 51 – 62, with respect to header and data portions, see Figs. 7A – 9D.

With respect to claims 2 – 5 and 9 – 12, note Figs. 7A – 9D.

With respect to claims 6 – 7 and 13 - 14 note Col. 3, lines 37 – 40 and Col. 13, line 16 – Col. 14, line 35.

Response to Arguments

Applicant's arguments filed 11/21/2005 have been fully considered but are not deemed persuasive to any error in the Rejection above.

Applicant's first argument is that the system of Johnson is a one-way communication system. However, this is incorrect. The examiner does not understand

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how such a position could be taken after reading the entire Johnson reference. First, the RDPS of Johnson can be a mobile phone, a laptop, a PDA, etc. (see Col. 7, lines 27 – 30, all known for two-way communication), operates with an Internet connection (Col. 2, lines 61 – 64, well known for two-way communication). Additionally, note “interoperation of communication between RDPS and SDPS”, also Col. 2, lines 61 – 64. In particular, note that the SDPS sends to the RDPS an invocable speed dial number and/or a web address (see Col. 4, lines 51 – 57 and Col. 13, line 64 – Col. 14, line 15).

Applicant states at page 4, last paragraph that since the transmission from the SDPS is location dependent that the Johnson system therefore cannot broadcast to a large number of subscribers. It is not understood how this could differ from applicant’s device. Is Applicant saying that if an Amber Alert is issued for a child in the Manhattan area, a mobile user in Alaska should also receive the Amber Alert? Obviously, the Alert will be location dependent. In addition, a fair and complete reading of Johnson will disclose that one can select different size location bounds for different transmissions.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent Application No. 2005/0190061 (Trela) – note Abstract and Figs.;

U.S. Patent Application No. 2004/676429 (Phillips et al.) – note Abstract and Figs.;

U.S. Patent Application No. 2004/00104808 (Khoshbin) – note Abstract and Figs.; and


U.S. Patent Application No. 2003/0218535 (Khoshbin) – note Abstract and Figs.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 273-8300.

01/03/2006


WILLIAM J. DEANE, JR.
PRIMARY EXAMINER